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| 10/022,627  | 12/17/2001  | Lee Michael DeGross    |                     | 1204             |
| 7590<br>Lee M. DeGross<br>400 Park Place, #1H<br>Fort Lee, NJ 07024 |             |                        |                     |                  |
| EXAMINER<br>ROSSELL, MICHAEL  |             |                        |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/022,627

**Applicant(s)**

DEGROSS, LEE MICHAEL

**Examiner**

MICHAEL ROSWELL

**Art Unit**

2173

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 7-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/GS-08)  
Paper No(s)/Mail Date 20100120
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite the use of "an internet network with internet/television hybrids". However, page 9 of the specification discloses that "the invention can be used in **future** generation World Wide Webs and **future** internets employing internet/television hybrids" (emphasis added). This recitation is insufficient to enable one skilled in the art to use the invention in a network that, as disclosed by Applicant, failed to exist at the time the invention was made.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for

purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 8, 9 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Cragun et al (US Patent 6,324,553), hereinafter Cragun.

Regarding claim 1, Applicant states on page 2 of the specification, "most internet advertisements come in the form of buttons or banners of various sizes with their messages exhibited by default", in other words, most internet advertisements are sent to the user as images. Cragun discloses a method for the selective blocking of such images presented to a user through a web browser. Furthermore, Cragun teaches placing an image of a blocking nature of sufficient size to conceal an internet advertising space, taught as a browser displayed icon covering the location of where the image would have been, at col. 11, lines 45-49. Cragun also teaches using a selection method to choose and make the blocking image disappear and reveal the advertising, taught as the use of a pop-up dialog in response to a user action (at col. 16, lines 47-50) that allows the user to de-select images from a blocking list, at col. 13, lines 40-46, which allows a user to view selected images.

Regarding claim 8, Cragun teaches a keys method to choose and make said blocking image or images disappear (taught as the selection method using any manner of pointing device [embodied in the disclosure as a mouse], or combination of devices, including a keyboard, at col. 16, lines 50-54).

Regarding claim 9, Cragun teaches a device for superimposing a non-advertising illustration over an internet advertisement includes: (a) a means for said non-advertising

illustration of said device to go into action and remove itself when selected by a person, (b) so that said internet advertisement is exposed and able to convey its contents to said person, whereby said person, without taking any action, is shielded from said internet advertisement by said non-advertising illustration, and whereby said internet advertisement is shown only if said person wishes to by selecting said non-advertising illustration. Cragun discloses a method for the selective blocking of such images presented to a user through a web browser. Furthermore, Cragun teaches placing an image of a blocking nature of sufficient size to conceal an internet advertising space, taught as a browser displayed icon covering the location of where the image would have been, at col. 11, lines 45-49. Cragun also teaches using a selection method to choose and make the blocking image disappear and reveal the advertising, taught as the use of a pop-up dialog in response to a user action (at col. 16, lines 47-50) that allows the user to de-select images from a blocking list, at col. 13, lines 40-46, which allows a user to view selected images.

Regarding claim 11, Cragun teaches a keys system (taught as the selection method using any manner of pointing device [embodied in the disclosure as a mouse], or combination of devices, including a keyboard, at col. 16, lines 50-54).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun in view of Reber et al (US Patent 5,903,729), hereinafter Reber.

Regarding claim 7, Cragun teaches the advertisement image blocking on a computer network of claim 1. Cragun fails to explicitly teach such further including an internet network with internet/television hybrids for blocking and revealing said internet advertising.

Reber teaches a computer network similar to that of claim 1. Furthermore, Reber teaches the use of a "network access apparatus" that includes "an internet television", at col. 6, lines 18-24.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun and Reber before him at the time the invention was made to modify the computer network of Cragun to include the internet televisions of Reber. One would have been motivated to make such a combination for the advantage of allowing a user access to a network through a wide variety of apparatuses.

Regarding claim 10, Cragun teaches the advertisement image blocking on a computer network of claim 9. Cragun fails to explicitly teach such further including an internet network with internet/television hybrids for blocking and revealing said internet advertising.

Reber teaches a computer network similar to that of claim 1. Furthermore, Reber teaches the use of a "network access apparatus" that includes "an internet television", at col. 6, lines 18-24.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun and Reber before him at the time the invention was made to modify the computer network of Cragun to include the internet televisions of Reber. One would have been

motivated to make such a combination for the advantage of allowing a user access to a network through a wide variety of apparatuses.

Claims 12, 13, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun in view of Serena (US Patent 6,912,571).

Regarding claims 12 and 13, Cragun teaches an internet advertisement blocking device as in claim 9. Cragun fails to teach such further including animation, and further including an internet advertising for superimposing over said internet advertisement.

Serena teaches a method for replacing advertising content with further content, similar to that of Cragun. Furthermore, Serena teaches that said advertising content may be replaced with a variety of content types, including text, video, sounds, images, movies, or further advertisements, at col. 5, lines 46-65, and col. 5, lines 12-32.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun and Serena before him at the time the invention was made to modify the advertisement replacement of Cragun to include the varietal content replacement of Serena, in order to obtain said replacement with further content, such as animation or an internet advertising for superimposing over said internet advertisement. One would have been motivated to make such a combination for the advantage of providing more relevant content to a user, filtering content, or allowing a user to ignore selected content. See Serena, col. 3, lines 37-55.

Regarding claims 16 and 17, Cragun teaches a method as in claim 1. However, Cragun fails to explicitly teach such further including a digital video of said blocking nature of sufficient

size to substantially conceal said internet advertising and wherein said image or images is made of an internet advertisement of said blocking nature to substantially conceal said internet advertising space.

Serena teaches a method for replacing advertising content with further content, similar to that of Cragun. Furthermore, Serena teaches that said advertising content may be replaced with a variety of content types, including text, video, sounds, images, movies, or further advertisements, at col. 5, lines 46-65, and col. 5, lines 12-32.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun and Serena before him at the time the invention was made to modify the advertisement replacement of Cragun to include the varietal content replacement of Serena, in order to obtain said further including a digital video of said blocking nature of sufficient size to substantially conceal said internet advertising and wherein said image or images is made of an internet advertisement of said blocking nature to substantially conceal said internet advertising space. One would have been motivated to make such a combination for the advantage of providing more relevant content to a user, filtering content, or allowing a user to ignore selected content. See Serena, col. 3, lines 37-55

Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun in view of van Hoff et al (US Patent 5,959,623), hereinafter van Hoff.

Regarding claim 14, Cragun teaches a device as in claim 9. However, Cragun fails to explicitly teach such including said non-advertising Illustration of said device to remove itself after a predetermined time.



van Hoff teaches a system for displaying a selected set of advertisements similar to that of Cragun. Furthermore, van Hoff teaches the display of specific images for a predetermined time period, at col. 7, lines 10-20.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun and van Hoff before him at the time the invention was made to modify the advertisement blocking device of Cragun to include the image display time period of van Hoff. One would have been motivated to make such a combination for the advantage of providing a system that allows the consumer to control the timing and content of advertisement information. See van Hoff, col. 1, lines 64-67.

Regarding claim 18, Cragun teaches a method as in claim 1. However, Cragun fails to explicitly teach such including said non-advertising illustration of said device to remove itself after a predetermined time.

van Hoff teaches a method for displaying a selected set of advertisements similar to that of Cragun. Furthermore, van Hoff teaches the display of specific images for a predetermined time period, at col. 7, lines 10-20.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun and van Hoff before him at the time the invention was made to modify the advertisement blocking device of Cragun to include the image display time period of van Hoff. One would have been motivated to make such a combination for the advantage of providing a system that allows the consumer to control the timing and content of advertisement information. See van Hoff, col. 1, lines 64-67.

Claims 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun, in view of Reber, Serena, and van Hoff.

Regarding claims 15 and 19, Cragun teaches said non- advertising illustration, said internet advertisement, said device for superimposing said non-advertising illustration over said internet advertisement, said non- advertising illustration to go into action and remove itself when selected by said person, said internet advertisement is exposed and able to convey said contents, said person without taking any action is shielded from said internet advertisement by said non-advertising illustration, said interact advertisement is shown only if said person wishes to by selecting said non-advertising illustration, an internet network with internet/television hybrids, a keys system, said non-advertising illustration includes animation, an internet advertising for superimposing over said internet advertisement, and said non-advertising illustration of said device to remove itself after a predetermined time, as Cragun discloses a method for the selective blocking of such images presented to a user through a web browser. Furthermore, Cragun teaches placing an image of a blocking nature of sufficient size to conceal an internet advertising space, taught as a browser displayed icon covering the location of where the image would have been, at col. 11, lines 45-49. Cragun also teaches using a selection method to choose and make the blocking image disappear and reveal the advertising, taught as the use of a pop-up dialog in response to a user action (at col. 16, lines 47-50) that allows the user to de-select images from a blocking list, at col. 13, lines 40-46, which allows a user to view selected images.

Cragun fails to explicitly teach such further including an internet network with internet/television hybrids for blocking and revealing said internet advertising.

Reber teaches a computer network similar to that of claim 1. Furthermore, Reber teaches the use of a "network access apparatus" that includes "an internet television", at col. 6, lines 18-24.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun and Reber before him at the time the invention was made to modify the computer network of Cragun to include the internet televisions of Reber. One would have been motivated to make such a combination for the advantage of allowing a user access to a network through a wide variety of apparatuses.

Cragun and Reber fail to teach such further including animation, and further including an internet advertising for superimposing over said internet advertisement, and including a digital video of said blocking nature of sufficient size to substantially conceal said internet advertising and wherein said image or images is made of an internet advertisement of said blocking nature to substantially conceal said internet advertising space.

Serena teaches a method for replacing advertising content with further content, similar to that of Cragun and Reber. Furthermore, Serena teaches that said advertising content may be replaced with a variety of content types, including text, video, sounds, images, movies, or further advertisements, at col. 5, lines 46-65, and col. 5, lines 12-32.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun, Reber and Serena before him at the time the invention was made to modify the advertisement replacement of Cragun and Reber to include the varietal content replacement of Serena, in order to obtain said replacement with further content, such as animation or an internet advertising for superimposing over said internet advertisement, or including a digital video of said blocking nature of sufficient size to substantially conceal said internet advertising and wherein said image or images is made of an internet advertisement of

said blocking nature to substantially conceal said internet advertising space.. One would have been motivated to make such a combination for the advantage of providing more relevant content to a user, filtering content, or allowing a user to ignore selected content. See Serena, col. 3, lines 37-55.

However, Cragun, Reber, and Serena fail to explicitly teach such including said non-advertising illustration of said device to remove itself after a predetermined time.

van Hoff teaches a method for displaying a selected set of advertisements similar to that of Cragun, Reber, and Serena. Furthermore, van Hoff teaches the display of specific images for a predetermined time period, at col. 7, lines 10-20.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Cragun, Reber, Serena and van Hoff before him at the time the invention was made to modify the advertisement blocking device of Cragun, Reber, and Serena to include the image display time period of van Hoff. One would have been motivated to make such a combination for the advantage of providing a system that allows the consumer to control the timing and content of advertisement information. See van Hoff, col. 1, lines 64-67.

### ***Response to Arguments***

Applicant's arguments with respect to claims 7, 10, and 12-19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's further arguments filed 30 November 2009 have been fully considered but they are not persuasive.

With respect to Applicant's arguments of claim 1, on pages 14-21 of the remarks, the examiner respectfully disagrees. As to argument (1), the examiner contends that Applicant's disclosure of prior art internet advertisements is sufficient to link the image-blocking of Cragun

to the claimed "internet advertising". Furthermore, irrespective of the quotation of Applicant's specification, Cragun specifically teaches blocking internet advertising, as disclosed above.

As to argument (2), Applicant's argument that Cragun does not "block each and every image" is moot. It is noted that the features upon which applicant relies (i.e., blocking each and every advertising space) are not recited in the rejected claim(s), which disclose concealing "an internet advertising space". Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Similarly, argument (3) claims that the application distinguishes over the Cragun reference in that the "structure of the claim are recited independent and apart from web browsers and unmodified and modified documents". No such recitation is found in the language of the claims.

As to argument (4), Applicant argues that the application distinguishes from Cragun in that the blocked image in Cragun "was clearly displayed previously, and was not blocked as the first default step". The examiner contends that nothing in the claim language necessitates that the blocked image not be displayed prior to said blocking step.

With similar respect to arguments (5), (6), (7), and (9), Applicant's remarks concerning the claim "directly" choosing the blocking image and "placing images of a blocking nature" as the "first default step" are features argued but not claimed. The language of claim 1 does not necessitate that the blocking be done "by default" or automatically; as such the user-selected advertisement blocking of Cragun is sufficient to teach the claimed "second means for placing an image or images of a blocking nature of sufficient size to substantially conceal an internet advertising space".

Applicant's argument (8) discloses that the blocking images of Cragun "do not simultaneously block anything". There is no limitation in the claims regarding "simultaneously blocking" any images or advertisements.

Argument (10) is similar to argument (2), in that Applicant states that Cragun does not block all images. No limitations are claimed regarding the blocking of all advertising images.

Regarding argument (11), the examiner notes that Cragun teaches selectively displaying images that have been previously blocked, at col. 13, lines 40-43, which states, "the user can remove entries from the blocking list 310 in which case the image associated with the image-URL 770 that is removed will no longer be blocked or hidden". Therefore, Cragun teaches displaying blocked advertisements as the user sees fit.

As to Applicant's argument (12) that Cragun does not anticipate "internet advertising", the examiner contends that the Cragun reference is concerned with blocking advertisements displayed through web pages (col. 2, lines 1-9). Such advertising is inherently "internet advertising". Furthermore, the content of said advertising is irrelevant to the function of the blocking feature in Cragun, and the examiner submits that advertisements related to internet sites are extraordinarily well known in the art. Similarly, Applicant argues (13) that Cragun "narrowly describes advertisements only for lotteries". This is factually incorrect; Cragun has provided the lottery advertisement as an example of an advertising image capable of being blocked by the user. Nowhere in the description of Cragun is the invention limited solely to advertisements about lotteries.

In argument (14), Applicant states that the claimed advertising "can be placed anywhere on the internet". Such a limitation is not disclosed in the language of claim 1 or any other claim in the instant application. Similarly, arguments (15) and (16) are directed towards images "that

are only of a blocking nature" and "that only disappear when directly selected". Again, such limitations are not expressly recited in the language of the claims.

In regard to Applicant's argument (17), that the image-blocking system of Cragun blocks displayed entities other than images and advertisements does not preclude the Cragun reference from teaching a system similar to claim 1, which has been disclosed to block advertising.

Applicant's arguments of pages 21-37 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Allegations such as "Claim 1 is likely to be cheaper to build", "Claim 1 per se is substantially smaller in size than Cragun", "Claim 1 is able to do a job faster than Cragun", etc. are unsubstantiated allegations. Absent any factual evidence in support, such statements amount to mere allegations of patentability, and fail to comply with 37 CFR 1.111(b).

In response to Applicant's arguments of pages 37-39, with respect to the claimed "keys method", Cragun has been shown to utilize a keyboard to facilitate the disclosed system and method, in the cited col. 16, lines 50-54. The inclusion of a keyboard in said selection method necessarily teaches the claimed "keys method" of claim 8.

Applicant's arguments of pages 39-42 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments of claim 9 on pages 42-46 are similar to those of claim 1 and as such are deemed similarly responded to. With further respect to Applicant's argument of claim 9 that "Cragun does not teach that a user is shielded from images or advertisements without taking action because to block or hide images in a blocking list is in response to a user request".

The examiner respectfully disagrees. Claim 9 discloses "a device for superimposing a non-advertising illustration over an internet advertisement". Cragun teaches said device, as disclosed above. The language of claim 9 does not necessitate that the user must not take action to superimpose a non-advertising illustration over an internet advertisement. Instead, the claim assumes that the non-advertising illustration is already superimposed. Thus, as Cragun teaches blocking displayed advertisements, a user, without taking any action to remove said blocking, would necessarily be "shielded" from the advertisement by the non-advertising illustration.

Applicant's argument of claim 11 on page 46 is similar to the argument of claim 8, and as such is deemed similarly responded to.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL ROSWELL whose telephone number is (571)272-4055. The examiner can normally be reached on 9:30 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kieu Vu can be reached on (571) 272-4057. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Roswell  
5/20/2010

/Kieu Vu/  
Supervisory Patent Examiner, Art Unit 2173